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10/539,699	06/16/2005	Joseph W. Grez	US020549	6580
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PHILIPS INTELLECTUAL PROPERTY & STANDARDS			LE, HUYEN D	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/539,699	Applicant(s) GREZ ET AL.
	Examiner Huyen Le	Art Unit 3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 03 December 2008.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1 and 4-20 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) 5-7 and 12-20 is/are allowed.

6) Claim(s) 1, 4 and 8 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/95/08)
Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date _____

5) Notice of Informal Patent Application

6) Other: _____

DETAILED ACTION

Claim Objections

1. Claim 4 is objected to because of the following informalities: claim 4 depends from claim 3 which has been cancelled. Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1 and 8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 1 is amended to include a limitation "the mounting elements are accessible to the user" which is not originally described in the original specification. The limitation is considered new matter.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-2 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Kraals. (4,270,672).

The Kraals reference discloses pump system comprising: a fluid cartridge member (18) made of flexible material, the fluid cartridge member having a fluid-filled portion and an exit opening for the fluid in the cartridge; a base member (10) having a cutout portion (16) into which the fluid-filled portion of the cartridge member (18) can nest; and a pressing member (38) having a nesting portion (40) including a length and diameter which substantially match the cross-section of the cutout portion of the base member, such that, over at least a substantial portion of the length of the cutout portion, the fluid-filled portion and the pressing member (38) substantially nest with the cutout portion, so that as the pressing member (38) is moved in operation forwardly over the cartridge, fluid is moved from the fluid-filled portion through the exit opening, with the flexible cartridge being flattened during such action substantially without creasing of the cartridge, the pressing member (46) including two mounting elements (42) and (44) which extend away from the cutout portion and outwardly from opposing ends of the nesting portion (40) (see Fig. 4), the mounting elements (42) and (44) capable of being accessible to a user that pressing member (44) is movable by user action on the mounting elements (42) and 44 , a beginning part of the cutout portion 35 being narrower than the length of the nesting portion of the pressing means but tapers outwardly to a point where the nesting portion fully nests within the cutout portion.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-2, 4 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ramirez (6,325,076) in view of Hardwood (1,353,747).

The Ramirez reference discloses pump system comprising: a fluid cartridge member (21) made of flexible material, the fluid cartridge member having a fluid-filled portion and an exit opening for the fluid in the cartridge; a base member (20) having a cutout portion (cavity) into which the fluid-filled portion of the cartridge member (21) can nest; and a pressing member (37) having a nesting portion (the wheel) including a length and diameter which substantially match the cross-section of the cutout portion of the base member (see Fig. 9), such that, over at least a substantial portion of the length of the cutout portion, the nesting portion (the wheel) directly contacts the cartridge portion continuously across substantially the entire cutout portion, so that as the pressing member (37) is moved in operation forwardly over the cartridge, fluid is moved from the fluid-filled portion through the exit opening, with the flexible cartridge being flattened during such action substantially without creasing of the cartridge, the pressing member including two mounting elements (38) which extend outwardly from opposing ends of the nesting portion, the nesting portion being configured to nest with the cutout portion around its entire circumference, permitting the nesting portion to roll along the fluid-filled portion of the cartridge, pressing fluid out therefrom through the exit opening, a beginning part of the cutout portion being narrower than the length of the nesting portion of the pressing means but tapers outwardly to a point where the nesting portion fully nests within the cutout portion.

Although Ramirez does not show an actuating assembly, attention is directed to Hardwood which teaches another pump having an actuating assembly (11) having a button coupled to the mounting axle ends of the roller (12) for a user to easily dispense the product by sliding the button.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the Ramirez pump system with an actuating assembly as taught by Hardwood for a user to easily dispense the product by sliding the button.

Allowable Subject Matter

8. Claims 9-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claims 5-7, 12-20 are allowed.

Response to Arguments

10. Applicant's arguments filed on 12/03/2008 with respect to claim 1 regarding Ramirez have been considered but are moot in view of the new ground(s) of rejection.

11. Applicant's arguments with respect to Kraals have been fully considered but they are not persuasive. Note that the cut-out portion (16) is the concave surface which is located inside and between the side walls (12) and (14). Although the mounting elements (42) and 44 of Kraals are crimped against the side walls (12) and (14), mounting elements still extend away from the cutout portion (16) (downwardly from concave surface 16 shown in Fig. 4). The pressing member 38 is capable of being

movable by a user action on the mounting elements (42) an (44) (i.e. the mounting elements will be slid able if being pushed).

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huyen Le whose telephone number is 571-272-4890. The examiner can normally be reached on Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Huyen Le/
Primary Examiner
Art Unit 3751